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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,970	09/09/2003	Michal Hlavac	INGEENI-2	3999

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EXAMINER	
DUNHAM, JASON B	

ART UNIT	PAPER NUMBER
3625	

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05/14/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/658,970	HLAVAC ET AL.	
	Examiner	Art Unit	
	JASON DUNHAM	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-10 and 12-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-10 and 12-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/22/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,3-10, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes-Roth (US 2003/0028498 in view of Vance (US 6,267,672).

Referring to claim 1. The combination of Hayes-Roth and Vance discloses a method for doing business comprising:

- Providing an individual with a virtual environment and at least one virtual element within said virtual environment, wherein said virtual environment is configured so that additional virtual elements can be introduced into said virtual environment, and wherein at least one of said virtual elements comprises a virtual character comprising a behavior state, an emotion state, and a learning state, and wherein said behavior state, said emotion state, and said learning state are capable of changing in response to stimuli received from within said virtual environment and/or commands from outside of said virtual environment (Hayes-Roth: abstract, paragraphs 4,6,23, & 46); and

- Enabling a customer to add an additional virtual element to the virtual environment (Hayes-Roth: paragraphs 6, 7, 179);
- Hayes-Roth discloses all of the above but does not expressly disclose requiring the customer to buy a product. Vance discloses a method for doing business wherein the enabling a customer to add an additional virtual element to the virtual environment is effected by: requiring the customer to buy a product which is different than, and unrelated to the additional virtual element, and as a consequence of the customer's purchase of the product, supplying the customer with access to the additional virtual element, whereby to induce the customer to buy the product (Vance: abstract and figures 1-4.). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Hayes-Roth to have included requiring the customer to buy a product, as taught by Vance, in order to encourage consumers to purchase a product (Vance: abstract).

Referring to claim 3. The combination of Hayes-Roth and Vance further discloses a method wherein the product comprises a good (Hayes-Roth: paragraph 7).

Referring to claim 4. The combination of Hayes-Roth and Vance further discloses a method wherein the product comprises a service (Hayes-Roth: paragraph 7).

Referring to claim 5. The combination of Hayes-Roth and Vance further discloses a method wherein the product is purchased by the customer on-line (Hayes-Roth: abstract).

Referring to claim 6. The combination of Hayes-Roth and Vance further discloses a method wherein the product is purchased by the customer at a physical location (Hayes-Roth: paragraphs 7 & 15).

Referring to claim 7. The combination of Hayes-Roth and Vance further discloses a method wherein said additional virtual element is delivered to the customer on-line (Hayes-Roth: abstract, paragraph 7).

Referring to claim 8. The combination of Hayes-Roth and Vance further discloses a method wherein said additional virtual element is delivered to the customer on electronic storage media (Hayes-Roth: paragraph 6).

Referring to claim 9. The combination of Hayes-Roth and Vance further discloses a method wherein said additional virtual element is configured to change state in response to stimuli received from within said virtual environment and/or commands from outside said virtual environment (Hayes-Roth: paragraphs 46 & 48).

Referring to claim 10. The combination of Hayes-Roth and Vance further discloses a method wherein said additional virtual element comprises a virtual character (Hayes-Roth: paragraphs 6 & 7).

Referring to claim 15. The combination of Hayes-Roth and Vance further discloses a method of doing business wherein access is effected by delivering an access code to the customer, such that the customer can use the access code to introduce the additional virtual element to the virtual environment (Vance: abstract). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Hayes-Roth to have included access effected

by delivering an access code to the customer, as taught by Vance, to encourage consumers to purchase more products (Vance: abstract).

Referring to claim 16. Claim 16 is rejected under the same rationale set forth above in the rejection of claim 1.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hayes-Roth and Vance and further in view of Nakisa (US 6,968,315).

Referring to claim 12. The combination of Hayes-Roth and Vance discloses all of the above but does not expressly disclose a method including the step of tracking the results of customer interaction through metrics specific to a measure of brand involvement. Nakisa discloses a method including the step of tracking the results of customer interaction through metrics specific to a measure of brand involvement (Nakisa: column 3, lines 34-49 & column 6, lines 48-67). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Hayes-Roth/Vance to have included the step of tracking the results of customer interaction through metrics specific to a measure of brand involvement, as taught by Nakisa, in order to better tailor advertising to customers (Nakisa: abstract).

Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hayes-Roth and Vance and further in view of Kolawa (US 2006/0026048).

Referring to claims 13-14. The combination of Hayes-Roth and Vance discloses all of the above but does not expressly disclose a method wherein access is effected by physical delivery of media. Kolawa discloses a method of doing business wherein access to a virtual element is effected by physical delivery of media containing a representation of the virtual element and wherein the media contains computer software (Kolawa: paragraph 167). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Hayes-Roth/Vance to have included access effected by physical delivery of media, as taught by Kolawa in order to provide the user with a hard copy of the media (Kolawa: paragraph 167).

Response to Arguments

Applicant's arguments filed January 22, 2008 have been fully considered but they are not persuasive. Applicant's general arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Applicant argues that Hayes-Roth does not disclose claim 1 by reciting the language of claim 1, the arguments do not show how the claims avoid the reference and do not address the combination of Hayes-Roth and Vance.

Applicant specifically argues that Hayes-Roth does not disclose adding an additional virtual element to the virtual environment. The examiner disagrees as Hayes-Roth discloses a virtual character (the Coach which responds to customer inputs) which is able to property elements (one type of a virtual element) to the virtual environments in which the customer is interacting (see at least paragraphs 59 and 179).

Applicant further argues that Vance does not disclose supplying access to an additional virtual element to induce a customer to buy a product. The examiner disagrees as Vance clearly discloses consumers buying an unrelated product (beverage) and supplying access to virtual elements (more time in an online game) with a remotely accessible game (see at least figures 2-3 and column 6, line 55 – column 7, line 35). The examiner further submits that there is motivation contained within Vance to combine the two references in order to induce the customer to buy a product (Vance: abstract) as also recited in claim 1. Independent claims 1 and 16 as well as their dependents are properly rejected under the rationale discussed above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON DUNHAM whose telephone number is (571)272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/
Supervisory Patent Examiner, Art Unit 3625

JBD
Patent Examiner
5/6/08